

POLICY NOTE

THE CONSERVATION OF SALMON (SCOTLAND) AMENDMENT REGULATIONS 2018

SSI 2018/37

Policy Objectives

1. Salmon is a protected species under the EU Habitats Directive. In addition, the North Atlantic Salmon Conservation Organisation (NASCO¹), to which the European Union is a party, provides guidance that makes it clear that fisheries are best managed on a single river stock basis and that action should be taken to reduce the risks posed by any Mixed Stock Fisheries (those fisheries exploiting salmon from more than one river). Salmon continue to face many pressures in the marine and freshwater environment and there is an ongoing need to ensure and be seen to be demonstrating that any killing of wild salmon in Scotland is sustainable. In addition, greater protection and enhancement of stocks will help to maximise the socio-economic benefits that flow from them.

2. The Conservation of Salmon (Scotland) Amendment Regulations 2018 amend the Conservation of Salmon (Scotland) Regulations 2016 ('the 2016 Regulations') which make provision for the conservation of salmon in Scotland. The purpose of the 2016 Regulations is to ensure that the killing of Atlantic salmon in Scotland is managed by assessing and categorising specified areas of inland water in relation to their conservation status. The 2016 Regulations prohibit the retention of Atlantic salmon caught in any coastal waters in a salmon fishery district and in specified areas of inland waters. In addition, Ministers may agree a conservation plan with the local district salmon fishery board or salmon fishery proprietors, particularly in Special Areas of Conservation (SACs) where stocks have been identified as in a poor conservation status.

3. The 2016 Regulations place a statutory duty on the Scottish Ministers to carry out an assessment of the stock levels for salmon in inland waters for the purposes of establishing the conservation status of salmon in defined areas. Where an area of inland waters includes a SAC, being an area where Atlantic salmon is identified as a species native to a protected habitat under the Habitats Directive, the Scottish Ministers must have regard to the conservation objectives of the SAC when carrying out their assessment. The purpose of the assessment is to determine whether fishing is sustainable in the area in question. The assessment process entails the collation of information on population levels of salmon in each area based on catch statistics.

¹ The Convention for the Conservation of Salmon in the North Atlantic Ocean is a multilateral agreement which came into force on 1st October 1983. Its aim is to promote the conservation, restoration, enhancement and rational management of salmon stocks in the North Atlantic through international co-operation. The EU is one of the contracting parties. One of the measures in the Convention is the prohibition of fishing for salmon outwith the 12 mile zone in coastal States (article 2.2). It also makes general provision regarding the availability, and sharing, of statistics for catch as well as stocks and the provision of scientific data. NASCO, the North Atlantic Salmon Conservation Organisation, is the international organisation established by the Convention.

4. Since the introduction of the 2016 Regulations, Marine Scotland has engaged with the sector to develop and improve the annual conservation assessment process and the robustness of the data used in the assessment. In the past year, for example, Marine Scotland has processed more than 3,000 proposed changes to the “wetted areas” maps of rivers across Scotland, using data provided by local Trusts and biologists; the number of fish counter sites has increased allowing the assessment model to incorporate greater regional variation in the relation between counts and rod catches data; the model uses a new method to estimate numbers of salmon returning to rivers, using information from a larger number of sites than previously and incorporates information on geographic variations in the relationship between salmon catches and counts; and seasonal and flow-related changes are also incorporated into the model.

Legislative Context

5. Section 38(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (‘the 2003 Act’) enables the Scottish Ministers to make regulations considered necessary or expedient for the conservation of salmon. The Conservation of Salmon (Scotland) Regulations 2016 were made in February 2016 and came into force on 31 March 2016. The Conservation of Salmon (Scotland) Amendment Regulations 2016 reflected developments in the assessment process and came into force on 1 April 2017. The purpose of the current Regulations is to amend the 2016 Regulations to reflect the most recent stock assessment, for the 2018 fishing season.

The Regulations

6. The Conservation of Salmon (Scotland) Amendment Regulations 2018 amend the 2016 Regulations. Regulation 2(2) amends regulation 1 of the 2016 Regulations to correct minor typographical errors. Regulation 2(3) amends Regulation 3(1) of the 2016 regulations to provide greater clarity and consistency within the Regulations. Regulation 2(4) amends regulation 3(2A) of the 2016 Regulations to replace the reference to “2017” with “2018” to reflect the stock assessment measures for the 2018 fishing.

7. Regulation 2(5) and (6) substitute schedules 1 and 2 of the 2016 Regulations. Schedule 1 of the 2016 Regulations describes the areas in which Scottish Ministers must carry out, or arrange for the carrying out of, an assessment of the conservation status of salmon. Schedule 2 describes the areas of inland waters where there is a prohibition on the retention of any salmon caught.

Consultation

8. In accordance with paragraphs 10 and 11 of schedule 1 of the 2003 Act, the Scottish Ministers have consulted with such persons they considered appropriate and have given notice of the general effect of their proposals by way of an advertisement in three national newspapers. The consultation period ran from 15 September to 13 October 2017.

9. In accordance with paragraphs 12 and 14(1) of schedule 1 of the 2003 Act, Ministers considered 192 representations and objections in relation to the proposals and determined to progress their original proposals subject to the following points:

9.1 The documents published for consultation included a table showing that the Forss Water had been assessed as a Category 3 river for the 2018 season – that is, mandatory catch and release would apply. In fact, the detailed assessment of the river correctly showed that Category 2 status should be awarded. The correct position was confirmed to the District Salmon Fishery Board during the consultation period and the Forss Water is not included in schedule 2 as one of the areas where retention of salmon is prohibited.

9.2 Following dialogue with stakeholders the Scottish Government reviewed the “outflow points” for three rivers, and the proposed outcomes were included in the public consultation. Having considered representations made on this issue, Ministers have determined to proceed with the proposals as published. Changes to the outflow points for the Kyle of Sutherland (consulted on with reference to the River Oykel) and the Urr Water are reflected in the revised schedules to the 2016 Regulations. With regard to the River Nith, Ministers consider that the proposed change would have a detrimental impact on the conservation status of multiple rivers feeding into the Solway Estuary, which is a mixed stock fishery. On balance, therefore, the Scottish Ministers have not sought to alter the outflow point for the River Nith.

Impact and Financial effects

9. A **Business and Regulatory Impact Assessment (BRIA)** has been prepared for these Regulations.

**Aquaculture, Crown Estates, Recreational Fisheries and Europe
Marine Scotland
February 2018**